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August 1975

FLASH BACK

Preserving the Past for the Future

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THE PRESERVATION RESTRICTION
A New Tool for Historical Preservation in Arkansas

by Morton Gitelman
Professor of Law, University of Arkansas

Preserving sites of historic significance is not a new endeavor; Americans have always been quick to form permanent or ad hoc groups dedicated to historic preservation in general or to the "saving" of a particular site or building. Two obstacles to such efforts are encountered frequently--legal limitations which force preservationists to acquire the entire legal ownership of a particular building or site, and the accompanying economic limitations which disable preservation groups from raising sufficient funds to save all but a few places. The Arkansas Legislature has recently passed Act 882 of 1975, which was signed by the Governor on April 4, 1975 and goes into effect in July. This Act removes some of the legal limitations that have shackled the preservation movement, and if properly utilized, it can dramatically increase the number of buildings and sites in Arkansas able to be saved from demolition and development.

Basically, what Act 882 does is to create a new kind of easement in Arkansas law, known as a preservation restriction, which is enforceable as an interest in land. Because this easement is usually much less in value than the entire property (known as the fee interest), public and private agencies interested in historic preservation can more easily afford the cost of a preservation restriction; also, the owner of the fee can retain certain advantages. The workings of Act 882 and its implications will be explained after surveying briefly the various methods of historic preservation.

The oldest method of historic preservation is the purchase of a site by a non-profit corporation or association. This is the traditional method and is beyond the scope of this article. Where a group has the money and the owner is willing to sell, no legal problems exist. However, because the private sector has generally been unequal to the task of widespread preservation (because of lack of funds), various legal methods have been created to fill the gap.

Use of the power of eminent domain (public purchase through condemnation) is a settled means of historic preservation. Our legal system allows governmental bodies to take private property for public use upon payment of just compensation. Occasionally, owners of property with great historical significance have challenged condemnation actions questioning whether historic preservation is a public use. In 1896, the United States Supreme Court held that taking of private property for the purpose of creating a memorial park on the site of the Battle of Gettysburg was a public use. Since that case several state courts have approved public acquisition of important sites. For example, in 1950 the Maryland Supreme Court upheld condemnation of private property surrounding the Star Spangled Banner Flag House. Also, in 1957 the North Carolina court approved condemnation for the purpose of restoring Tryon's Palace in New Bern. The shortcomings of condemnation as a tool for preservation are obvious. Although no legal impediments are likely, the economic realities limit such takings to only the most popular historic sites; funds for cultural acquisitions usually have the lowest priority in governmental budgeting on national, state, and local levels.

Another method of historic preservation is the use of the police power, more particularly the zoning power. In many states, zoning legislation allows municipalities to create historic districts. Regulations in these districts typically provide for construction and restoration standards, as well as permissible uses of property within the district. Courts have generally been receptive to the idea of the historic district zone, reasoning that esthetic purposes and the promotion of tourism are valid governmental interests. Cases from Louisiana approving regulation in the Vieux Carre district of New Orleans, from New Mexico involving Old Santa Fe, and from Massachusetts involving Beacon Hill in Boston and Nantucket, are leading examples. The Arkansas zoning statutes are broad enough to support historic districts in this state, specifically providing that a land use plan "may include...the preservation of natural and historical features, sites, and monuments." The zoning approach, however, has limited utility in that it is unsuitable for dealing with isolated structures of archi-

tectural significance or archeological sites or historic open space sites.

The problem of dealing with the preservation of a single building or site has evoked some newer governmental response. Some cities, notably New York, have landmark preservation ordinances; the New York ordinance basically prevents demolition of a designated landmark, provided the owner is able to recognize a 6% return on his property. New York and Chicago have recently adopted schemes which award to the owner of an urban landmark certain development rights which can be sold or transferred to nearby property allowing more intense development than the zoning ordinance permits, thus providing compensation to the owner of the landmark for preserving it. This transfer approach has been questioned by a lower court in New York but the case is on appeal. Landmark ordinances and development rights transfer ordinances seem to have their greatest utility in large cities where landmarks are usually extremely valuable pieces of property; also, state enabling legislation may be a prerequisite for some of these newer devices. (An excellent book detailing these new approaches is Costonis "Space Adrift: Saving Urban Landmarks Through the Chicago Plan," Univ. of Ill. Press, 1974.)

Federal involvement in historic preservation has increased significantly since the adoption of the National Historic Preservation Act of 1966, which establishes the National Register of historic sites, and defines historic preservation to include "the protection, rehabilitation, restoration and reconstruction of districts, sites, buildings, structures and objects significant in American history, architecture, archeology or culture." The act is primarily directed at federal agencies and imposes no duties on state or local government. The effect of having a building or site listed on the National Register is limited, as the statute merely requires any federal agency contemplating any action "to take into account the effect of the undertaking" on any site listed.

The Provisions of Act 882 of 1975

The legal difficulties which prevented acquisition of

less than the entire fee interest in a historical site developed over centuries of common law property rights. At common law, if a governmental body or private agency sought to acquire a lesser interest in property such as an easement to preserve the exterior of a building, the enforceability of the easement would be uncertain; the law required that the owner of the easement own an appurtenant estate (adjacent land) that would be benefited by the easement, and the absence of such an interest meant that the easement would not "run with the land" so as to bind future owners.

The most important feature of Act 882 is to clarify the validity of preservation restrictions which are less than a fee interest; Section 2 of the Act provides:

> No preservation restriction held by any governmental body or by a charitable corporation or trust shall be unenforceable on account of lack of privity or estate or contract or lack of benefit to particular land or assignability of the benefits provided that such restriction shall be approved as provided in Section 3 of this Act.

This change in the common law will enable governmental bodies in Arkansas and private groups, such as historical societies, to acquire less than the entire fee interest in historical structures or sites without fear of future legal problems about enforcing the interest.

The definition of a preservation restriction is found in Section 1 of the Act:

> A preservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land or in any order of taking, appropriate to preservation of a structure, site, or open space historically significant for its architecture or archeology, to forbid or limit any or all (a) alterations in exterior or interior features of the structure, (b) changes in appearance or condition of the site, (c) uses not historical-

ly appropriate, or (d) other acts or uses detrimental to appropriate preservation of the structure, site, or open space.

This section serves two useful purposes. First, the difficult problem property lawyers face in custom-tailoring language to make sure the property interests are correctly created, is not an obstacle in creating preservation restrictions; legal distinctions between servitudes and easements, covenants and conditions are immaterial. Second, a great deal of flexibility is offered in defining the scope of the restriction. This is the most useful part of the Act in reducing the cost of preservation.

The preservation restriction may go only to the exterior of a building (sometimes referred to as a "facade easement"), or, conversely, only the interior may be preserved. Such a limited restriction may be relatively inexpensive, certainly less than the cost of purchasing the entire structure. An architectural landmark, for example, can be left in private ownership, the owner allowed to remodel and exploit the interior, with the public or private preservation agency owning an easement to preserve the exterior. Contrast this with the necessity of a preservation agency having to raise the funds to purchase the entire building, then being saddled with the costs of maintaining an empty structure or attempting to lease out the interior. The flexibility of preservation restrictions is a truly important tool for enhancing preservation efforts.

An important feature of Act 882 is the vesting of power in an administrative agency, the Arkansas Commemorative Commission, to monitor preservation restrictions. Section 3 provides:

> Approval of the creation, modification or termination of a preservation restriction shall be executed by the office of the Arkansas Historic Preservation Program of the Arkansas Commemorative Commission to assure that such restriction shall be in the public interest and shall be evidenced by a certificate of termination duly executed on behalf

of the Arkansas Commemorative Commission and duly recorded in the deed records of the county where the structure, site, or open space is located. In determining whether the restriction or its continuance is in the public interest, the Arkansas Commemorative Commission shall take into consideration any national, state, regional, and local comprehensive land use or development plan affecting the structure, site, or open space.

This section appears to make Commission approval a necessary condition of having a valid restriction, an aspect of the Act which will probably upset property lawyers who may justly complain about a statute that allows creation of a new interest in land, but makes such interest conditional on the approval of an outside agency. What will be the legal status of a preservation restriction created by deed or will, recorded in the chain of title, but without a certificate also on record? Arguably, such a restriction would be legally unenforceable, but it could still affect future title opinions.

This one note of confusion in the Act probably represents some important policy considerations, such as the necessity of a mechanism to inject the public interest into historic preservation. Should an individual be allowed to create a restriction and foist off the duty of maintaining his property after his death, without public recognition of historical significance? As of this writing, the Commission has not published rules or regulations governing approval of creation or termination of preservation restrictions.

Termination of a restriction is also an important public interest consideration. Preservation forever may be too restrictive. Thus, Section 4 states:

> A preservation restriction may be modified or released, in whole or in part, by the holder with the approval of the Arkansas Commemorative Commission for such consideration, if any, as the holder may determine, in the same manner as the holder may dispose of land or other interests in land, but only after a public hearing upon reasonable public

notice under such procedures as shall be established by the Arkansas Commemorative Commission.

The Act also provides, in Section 5:

> Such restriction may be enforced by injunction or other proceeding in equity, and shall entitle representatives of the holder to enter the land in a reasonable manner and at reasonable times to assure compliance. It shall be the duty and the responsibility of the Attorney General of the State of Arkansas to enforce the provisions of this Act.

Utilizing Act 882 of 1975

Rather than raise thousands of dollars to purchase or condemn an architectural landmark or historically significant site, the public interest may require only the preservation of a bacade or the non-development of an open space. We do not have to turn all historically significant places into museums or tourist attractions. The owner of a building may be willing to give or sell for a small amount the right to demolish or alter the exterior of a building so long as he can retain privacy and use of the structure. In fact, it is fairly clear that donation of a preservation restriction to a city or non-profit corporation is deductible from the donor's taxable income as a charitable contribution (based on Revenue Ruling 205 of 1964); thus the owner can continue living in an architectural landmark, not have to open it to the public, and take a tax deduction to boot!

By using Act 882, a local historical society, for example, could use limited funds to acquire a great deal of preservation without committing itself to operation and the maintenance of untenanted buildings. Further, buildings of historical significance already owned in fee by preservation agencies can generate income to finance further preservation efforts; the owning agency could sell the structure for private use, retaining a preservation restriction, and finance the acquisition of restrictions on other buildings or sites.

A local government, utilizing either tax revenues or

revenue sharing monies (now known as community development grants) and its comprehensive planning process, can get into the important business of historic preservation with limited budget expenditures. However, the usefulness of Act 882 for both government and private preservation agencies can be greatly enhanced by programs that seek to identify historically significant buildings and sites ahead of time, rather than awaiting the crisis that ensues when deomolition plans are announced by a private owner. Surveys and identification plus utilization of the preservation restriction can go a long way in saving our architectural, archeological and cultural heritage. The tools are available; we need only to pick them up and use them.

(This article was written especially for FLASHBACK, and is based on an article concerning preservation restrictions appearing in Volume 28, No. 3 of the Arkansas Law Review, by Prof. Gitelman.)

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From the WEST FORK SUN, May 21, 1910

Sulphur City

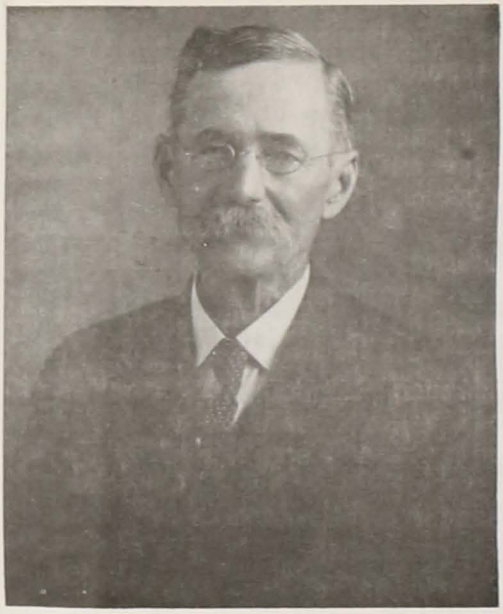
Mrs. J. L. McConnell is house cleaning and papering this week. There are some home-seekers from South Dakota in our vicinity this week.

D. I. Perry is on the sick list this week. B. F. Hicks and wife and Will Hicks and mother visited the Mount Salem cemetery on Tuesday afternoon where they have loved ones at rest.

W. W. Hanshew of Trace Valley is right poorly at this writing. Dr. Thurman of Harris was called there Tuesday. Mrs. Mary Boaz is visiting her father W W. Hanshew.

Master Lloyd McConnell is visiting his brother Frank in Neosho, Missouri. Brother Reed came home from Winslow last week, where he had been holding a meeting.

"Firefly"



WILLIAM BENNETT BROGDON:

PIONEER HORTICULTURIST

by Thomas Rothrock

William Bennett Brogdon was born in "West Tennessee", near Milan, on March 7, 1854. His father died when he was still a child. During the Civil War, the armies of both the Blue and the Grey tramped and fought back and forth over the soil of western Tennessee. Food at the Brogdon home was scarce. More than once, young William while on the way to the mill with a scant sack of grain had it taken from him by the "Feds."

Throughout his life "W. B." was not physically strong. In later years he told his family, "I firmly believe my lack of robustness is due to my lack of food when a child. I have never been able to get entirely over the

malnutrition I suffered then." Sometimes he would add, "I have, at times, had to let go a profitable business proposition because I did not have the physical strength to see it through."

In his late 'teens, Brogdon took a team and wagon and went to Texas, where he used the team and wagon to haul freight over the plains, and through the chaparral and mesquite of that southwestern land. At Corsicana, Tex. on February 8th, 1880, he married Dee Jackson of Texas. Seventeen children were born to them. At one time, Mrs. Brogdon fixed 12 lunches for school children--their own.

W. B. established a general merchandise store in Cleburne on the town square. Cleburne was located then on a cattle drovers' trail; said to be none other than the famous, several hundred mile long Chisholm trail, from south Texas to railheads in Kansas. Many and large were the herds of Longhorn cattle which passed by the little town, their cloven hoofs raising clouds of dust, their horns clacking together. At times, the herds were bedded down nearby at night, while the cowboys lucky enough to be off guard on night herd came into town to relax. Much was the horseplay on the square on such occasions, with many fights, sometimes enlived by gunfire.

In those days, all foods which spoiled in the stores of Cleburne was tossed into the street where refuse was quickly devoured by hogs, goats and dogs which roamed at will. One day Brogdon was standing with his back to the door of his store when he spied in a barrel of apples one which had rotted. Without turning about, he seized the rotten apple and gave it a vigorous pitch in the direction of the street. He heard someone cry out, and, whirling around, the storekeeper was much embarrassed to learn he had hit a portly drummer squarely in the middle. During this period as manager of a store, W. B. also purchased horses and mules which he shipped back to his native Tennessee.

One day, he bought some apples off a wagon load from C[illegible]e Hill in Arkansas. Before selling those apples, he looked at them many times. They were big and red and beautiful, and they made him think. Thoughts which had

flitted through his mind several times previously came back with greater vividness. He was not entirely satisfied at Cleburne. The store was too confining, and his health was not as good as it should be. Perhaps a move to the Ozarks would help him. He made up his mind to make that move.

He and his family came to the famous health resort of Eureka Springs in 1888. They resided in a house above the big spring at Basin Park, and the children carried water up the cliff in stone jars. In August of that year, the Brogdon family moved to Springdale.

After some looking about, W. B. purchased a farm just south of town, where Highways 71 and 68 West now meet. This farm had 40 acres in it, and was one of the oldest settled places thereabouts, having been cleared before the Civil War. It had on it a small apple orchard, but its soil was worn out. Arkansans made fun of this slender Texan buying the old place and planting more apple trees on it. But this particular Texan had ideas in the head which rested on his not too sturdy shoulders.

In the town of Springdale were several livery stables. One, standing at the corner of the present Holcomb and Meadow Streets, had before it a pile of manure as large as a small house. Other stables had their piles, too, and all of them were only too glad to get these piles hauled away. W. B. had several hauled to his farm; and to the orchard land thus enriched, cowpeas and rye were added as cover crops. More land was purchased, more orchards planted, and more soil enriched by the process just described.

While waiting for his apple trees to come to bearing, Brogdon had to provide for a large family. He was one of the pioneer strawberry growers of Northwest Arkansas and he also grew raspberries, blackberries and beans. As there was no local market, he shipped the vegetables and small fruits by express. Other farmers, following his example, grew some of the same produce, and Brogdon bought much of it to be shipped away. In this way was originated what became an extensive produce business of Springdale, Arkansas.

In time, the Brogdon homestead was shifted from the location at the southwest corner of Springdale to just northeast of town. Here were made considerable plantings of aplles, peaches and cherries. The apples and peaches went out by carloads, the cherries by express only. For years there was a long list of cherry customers to whom W. B. would ship standing orders for a given number of crates each year. Even crabapples and apple cider came into the produce picture, and there was also a nursery where apple and peach stock was grown. W. B. was always trying out new apple and peach varieties by experimentally planting any which came to his attention which he considered might prove commercially feasible. Anything and almost everything pertaining to northwest Arkansas horticulture, he did. For 40 years he was active in the Arkansas State Horticultural Society, serving the Society in different capacities, including that of president. In 1928, that Society bestowed honorary, or life, membership upon him.

He did not neglect his family or his duties as a citizen because of his engrossment with horticulture. He was president of the Washington County School Board and also a chairman of the school board of Springdale. He served as a Washington County Road Commissioner. For more than 40 years he was deacon in the Baptist Church; being chairman of the board of deacons of First Church, Springdale, when he passed away. He helped organize the Sunday School of Springdale Baptist Church (later First Baptist) in 1890, and was its superintendent during the first 25 years of its existence. He was a member of the Board of Trustees of the Mountain Home Baptist College, Mountain Home, Arkansas. W. B. keenly wished for a minister of the gospel from among his sons, but this did not come to pass. However, he was instrumental in sponsoring ministerial students in both Mountain Home Baptist College and Southwestern Baptist Theological Seminary at Fort Worth, Texas, supporting several of them with his own personal funds.

Dee died January 11, 1927 and William Bennett Brogdon missed the companion of many years and many ventures. He survived until June 10, 1929. Of their 17 children, only two are living: Mrs. Midge Rounds and Mrs. Francis McDowell, both of Springdale, Arkansas.

BEAN CEMETERY

by Conrad Russell

Bean Cemetery was the burial place for the black people of Lincoln, Summers, and Cane Hill. The land where the cemetery is situated was donated by John Wesley and Eliza Bean who homesteaded much of the land that is now the town of Lincoln. The cemetery's location is at the east edge of Lincoln on Hwy. 62 near the roadside park.

The legal description is "The NE¼ of the SE¼ of Sec. 30, Twp. 15N, Range 32W."

In the early years, this plot of land was not only a burial ground; there was a white frame building used as church and school, and a grove where picnics, barbecues and general recreation took place.

The black people from Lincoln, the Colony settlement of Summers and the Happy Hollow settlement of Cane Hill used this location as a central meeting place.

Ky Little and his wife Amanda homesteaded 80 acres of land just east of Summers and extending up the mountain side. He gave each family who came there the privilege of building a house on a plot of land large enough for the house and a garden. About 20 families settled in this area. A combination church and school was also located here and was in use for many years.

The school was governed by the same board members who served the Summers school. Mr. J. T. Elms, father of Mrs. C. I. Parks, served for many years and visited the school regularly, just as they did the Summers school. The teacher would line the children up across the front of the room for spelling to demonstrate their progress.

Brother Berry from Fayetteville is remembered as one of the ministers of the Colony church. The Colony people held barbecue picnics on Ballard Creek. Sometimes a platform was built and they had a joyous time singing and dancing.

Many of the Colony people are buried in Bean Cemetery, many in unmarked graves. The following families lived in, or near, the Colony, and worked on the farms and in the homes of the Valley people.

Jess Buster, wife Mollie, and daughter Stella
Arthur Trim Barker, wife Ellen Frances, and seven children (buried in Lincoln)
Arthur Barker and wife Stella Buster; their children were Clell and Lafayette
Zachariah Thomas Barker and wife Stella Wilson
Doug Barker and Lou Bean and seven children
Bud Funkhouser and wife Delie, who cooked for the Lincoln Hotel
Moses Funkhouser, wife Zetta Fisher, and children Cashmere and William (Moses' second wife was Ada Barker)
Sam Funkhouser
Jack Funkhouser and wife Mirah, had children Mose, Charlotte and Renee. Jack's second wife was Annie Barker, children J. T., William, and Timmie. These Funkhousers lived at the back side of the Brewster farm near the Colony.
William and Laura Miller; they lived on the Little farm and worked for them. They had one son Butler.
Jake and Kate Barker Davis
Albert Parks
Eliza, Cecilia, and Delah. Thought to be descendants of the Elms slaves. These ladies were good and helpful women, loved by all who knew them.
William and Maggie Flowers
Charley and Oma Fisher Flowers had one son, and he killed his father
John D. Ballard and wife Fannie had three children, Cleard, Sammie and Davie
Mime Ballard was the mother of John, Jake and Kate Davis

Information about the Summers Colony was given by Mr. and Mrs. Claud Roy and Mr. and Mrs. C. I. Parks.

The Bean Cemetery is over 100 years old and according to legend, may be much older. The oldest marked grave

is Anderson Bean. Isaac Brown died 1882, age 82 years. Other marked graves of the Lincoln colony are:

Arthur Trim Barker, b. 1884-d. 193?, Summers
Ellen Frances Barker, b. 1884-d. 1944, Summers
Zachariah Thomas Barker, b. 1891-d. 1969, Summers
Mary Barker, b. 1908, age 32 years, Summers
Sherman Barker, b. 1907-d. 1969, Summers
Juanita Barker, b. 1925-d. 1966, Summers
J. Wesley Bean, b. 1827-d. 1906, Lincoln
Elizy Bean, b. 1836-d. 1909, Lincoln
Vidie Bean, no dates
Anderson Bean, b. 1815-d. 1878, Lincoln
William L. Bean, age one year, 11 months. Son of J. W. and Eliza
Charley Bean, b. 1885-d. 1904. Son of J. W. and Eliza
Adeline Ballard, d. 1883, age 18 years
Bob Kidd, no dates
Doc Kidd, b. 1841-d. 1894, husband of Fannie Kidd
William Miller, no dates
Laura Miller, d. 1932, wife of William Miller
Nellie Perkins, d. 1908, age 23 years
Five children of M. C. and Mary Raper
Charley Wilson, born in slavery, died 1930
Mandy Wilson, d. 1939, age 67 years
A. Bar, no dates
George, son of Fannie Kidd

Aunt Fan Kidd (as she was known to the community) had a home in a two-room log house, south of Summers butane tanks on Highway 62 about 100 yards down a winding lane through the woods. She was well known for her nursing care of the white neighbors and especially of children. At one time she saved the life of a child by artificial respiration, mouth to mouth. She also used herbs and home remedies. One known family had measles and she told the mother to give the children hot ginger tea to make them break out. The lady followed this advice and the children were soon much better. Children and neighbors all loved her.

The people in Lincoln who needed house and garden help depended on the Bob Fisher family for many years.

Toney and Helen Fisher Barker will always be kindly remembered by the Lincoln people. During Toney's lingering illness, the white people of Lincoln were loyal to Toney and Helen, and sat with him night after night. They also took them much needed food.

Bob Kidd and family lived near the cemetery, in a log house.

The following people, from Cane Hill, also rest in the Bean Cemetery:

Rev. John Lackey and wife Margaret King, who owned a farm in Happy Hollow. They were honest, hard-working people. Aunt Margaret was an expert cook and housekeeper. They were always neat and well dressed.

Bob Lackey and wife Ethel Flowers. His first wife was Miss Collins. Bob farmed and trained horses and he operated the Moore farm for Charles Moore for many years.

Alfred Lackey and wife Lettie Spencer, who owned a farm, worked on other farms, and trained horses. They had one son, Claude of Fayetteville.

Tom Lackey and wife, Miss Collins. Tom worked for Moore and Buchanan, millers, who operated a mill at the present location of the old steel wheel.

Dock Flowers and wife, Jennie. Dock Flowers and a young man, Homer Smith, delivered the flour made by Buchanan and Moore. The flour was ground and sacked at night. About daylight in the morning, the men would leave the mill with two wagons and be gone two days. They would camp out at night, and return late the second day with a sackful of money and a record sheet showing deliveries and collections. Many small stores paid in silver.

Tim Deffenbaugh and wife Maggie lived on the banks of Jordan Creek, where Clarence and Addie Bryant now live. He worked for Cane Hill Mills. Their children were--Mary, Pete, Josey, Laura, Lizzie, Charley and Hobart. Laura was a nurse and a midwife. Hobart married Susie Buchanan; the two of them raised a large family. Now, Susie and most of the family live in Fayetteville. Hobart was

operator of the Pyeatte farm for James H. Pyeatte and died of pneumonia. The Pyeattes did much to help care for him in his illness.

Patsy Spencer had a large family. Those who lived in Happy Hollow, and near Cane Hill, were: Jim, Fate, Roll, and Jane. Jane's children were Lettie, Homer and Clarence. Jane was a good, hard-working woman, and raised her family by the work of her own hands as many others did in her time. Later in life she married Frank Barker and sometime after Frank's death she decided to build a new house, because the old one was in bad shape. To raise money for this new house, she sponsored a picnic and barbecue at the Bean Center at Lincoln. They barbecued two beeves, and sold fried chicken, soda pop, ice cream and cake. When she was asked about the party, Jane called it a huge success. There was music and dancing, and Jane said she danced a lot, because the boys did not have enough girls for partners. She finally got her new house and was very happy. When asked if she planned to marry, she said, "No, indeed. No man is going to talk me into marrying. I plan to die Frank Barker's widow."

Frank Barker was a good butcher, much in demand at butchering time. He was also a barbecue expert, and helped at the Lincoln Center barbecues.

Priscilla Garnet was another hardworking woman who would walk as far as two miles, work all day and carry a heavy load home in the evening. Franky, Elsie and Amy were her children. She lived in a log house on five acres of land in Happy Hollow.

Steve and Dora Parks lived and raised a large family on the Lewis place. Their daughter, Clara, married Homer Smith and lives in Fayetteville. They raised 14 children. Homer and Clara helped to verify much of the information concerning the Happy Hollow people.

Charley King and wife Susie. He worked for Rankin Pyeatte and W. S. Moore. In taking care of some milling business, it was once necessary to send a large sum of money to a Kansas City bank. Mr. Pyeatte, concealing the money in a load of corn, sent Charley to Kansas City to deposit the money.

He accomplished the mission and returned safely. Charley and Susie bought ten acres of land from Mr. Moore, paying for it from his wages.

William (Bill) King, and Robert (Bob) King.

Phil King married Mary Deffenbaugh. He worked for the mill and on the W. S. Moore farm; they lived in a house near the mill.

Roll Taylor and wife.

Helen Spencer.

Jess Kidd was a small boy when he fell into a kettle of hot soap and was burned so severely that he suffered brain damage from which he never recovered.

Dan Trout was born with twisted feet and could not do farm work. He was taught to cook and to keep house. He also was good at taking care of children; he loved them and they loved him. When he was elderly, a group of boys who planned to enter the University of Arkansas, took him to Fayetteville where they rented a house and installed him as cook, housekeeper and general manager. He took the job very seriously, taking good care of the boys, and keeping them in line. The boys were Dr. H. E. Buchanan, Coan Moore, Jim and Tom Pyeatte, Lacy Edmiston and Bill Jackson. Once a salesman came to the door and knocked. Dan went to the door and when the man said, "I would like to speak to the lady of the house," Dan replied, "I is she." Dan spent his final days with the Brewster family. He asked to be buried in the Cane Hill Cemetery, and his request was granted. A marker is on the west side of the cemetery.

Mark and Mariah McClellan spent most of their lives in the White McClellan home. They were married in the parlor of the McClellan home, and buried in the McClellan cemetery. Mark was scalded to death while working at the Cane Hill mill when a blow-off valve in the boiler backfired on him.

Bill Raper, a school master in Happy Hollow school for many years. A strict disciplinarian, he did not believe in sparing the rod and was as strict out of school as in.

A DIFFERENT GREGG AND ANOTHER VAN HOOSE

by Hildy Crawford

Anyone interested in the history of Washington County has read of Lafayette Gregg who came to Fayetteville in 1837 at the age of 10 from Alabama and became prominent in the early history of Fayetteville. Built in 1873, the Gregg house still stands on Gregg Street, reminder of earlier days.

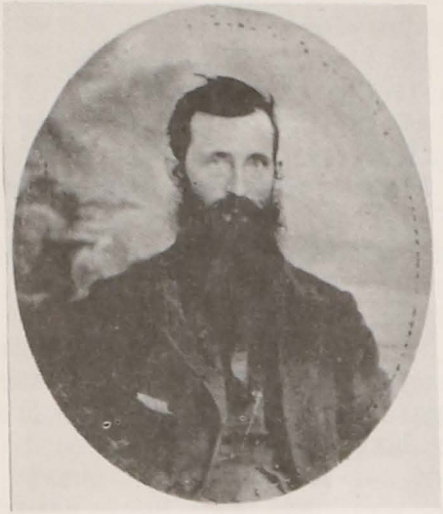
As far as is known, there is no connection between Lafayette Gregg and James Gregg, who came from Tennessee and settled in Hazel Valley around 1840. He operated Gregg's Mill and was also a Justice of the Peace.

James Gregg and his wife, who had been Mary Baker, were parents of the following children: (1) G. G. (or Gammon) Gregg, b. 13 November, 1820; (2) Jane Gregg, b. 19 December, 1823; (3) William B. Gregg, b. 14 November 1826; (4) Elizabeth Gregg, b. 1828; (5) Endymion Gregg, b. 1828; (6) Annis Adeline Gregg, b. 31 July 1833, Murray Co., Tenn., married P. P. Van Hoose at Gregg's Mill 20 January, 1853, d. 1910 in Louisiana; (7) Nathan Gregg, b. 1836, d. Denver, Colorado; (8) Mary Ann Gregg, b. in 1838, m. William Nesbitt, d. Marshall, Texas. The first six of the Gregg children were born in Murray Co., Tennessee, and the other two may have been also, although the family was in Missouri for a short time before coming to Arkansas.

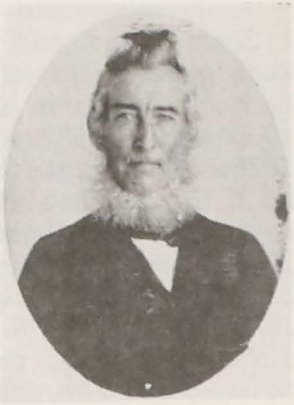
Fay Hempstead's "Pictorial History of Arkansas" tells of J. H. Van Hoose: "He received schooling in the 'old field' schools of the county, taught in log houses with dirt floors and split puncheons for desks and seats."

Preceding the free school was a subscription school. That is where the Van Hoose children attended after the family settled in Hazel Valley in 1839.

An article from the fluent pen of James H. Van Hoose tells us that "There were only 10 or 11 families in the



PETER P. VAN HOOSE



JAMES GREGG

ANNIS ADELINE
GREGG VAN HOOSE

school district...some children had to walk three miles to school. The log school house was built on a bluff overlooking White River, just below the mill (Gregg's?) pond where we boys learned to swim, and has long since rotted away and only the tumble-down rock chimney is yet to be seen."

Elizabeth Van Hoose Marion, younger sister of James H. and Peter Van Hoose, was only two when the family moved to Hazel Valley, and only four when she started to this school. In later years, she often reminisced about her first day at school. She said it was a one-room school taught by a German named Roth. Both the Greggs and the Van Hooses were among the scholars. A letter to one of the county newspapers, signed Welch, repeats her memory "...a log schoolhouse with puncheon floor and unchinked cracks which served the double purpose of ventilation and windows, furnished with split log benches...a collarless pedagogue and a well-seasoned hickory stick."

Writing about the Free School in the Fayetteville Republican of March 23, 1890, date-lined War Eagle, James H. Van Hoose, an early mayor of Fayetteville, and the brother of P. P. Van Hoose, said that this school was held in the old Baptist meeting house near Gregg's Mill in Twp. 15, Range 39 West. The teacher was Rev. James E. Mayfield. The article names both the Van Hoose and Gregg children, as well as Fines, Mankins, Mills, Hannas, Gibsons, Roberts, Evanses and Shepheards. A four-month school, it must have been opened about 1846, for in the article the author says, "I read over the familiar names of the boys and girls of 44 years ago."

Peter P. Van Hoose was born in Johnson County, Ky. on 14 October 1825, and was 21 in 1846 and is so listed in the article. He left soon afterward to attend the Ozark Institute. These must have been busy years for him, as he was also reading law with Judge David Walker.

James David Walker, of Russellville, Ky. came to Fayetteville in 1847, and he and Peter Van Hoose attended Ozark Institute at the same time. It is probable that both read law with Judge Walker, as Peter's law partner married Mary, daughter of Judge Walker.

Goodspeed, page 203, says, "P. P. Van Hoose, a brother of Mayor J. H. Van Hoose, was educated at Ozark Institute, in which he subsequently became a professor. He was a thorough scholar and lawyer of high ability, but was cut off by death in the prime of life."

When Fayetteville was chartered in 1859, J. W. Walker was Mayor and P. P. Van Hoose was one of the city councilmen, along with E. C. Boudinot, C. E. Butterfield, A. Crouch, J. B. Simpson and J. H. Stirman. Van Hoose was Washington Co. Coroner 1848-50, Secretary of the fair in 1858, and in 1860 was elected school commissioner. He was also Master of the Masonic Lodge.

It is interesting to speculate that if it had not been for his untimely death, P. P. Van Hoose might have been as well-known as his brother J. H. Van Hoose.

It was within a mile of the free school, not far from Gregg's Mill, that P. P. Van Hoose was captured by Federal troops in October 1862. A Confederate soldier, he may have been visiting his wife at the home of her parents. Another of the many articles by J. H. Van Hoose says: "In October 1862 P. P. Van Hoose of Fayetteville, Ark. was captured by a Federal Scout, commanded by Major Charles Calloway of the 1st Arkansas Cavalry, and taken to Springfield, Mo., where he was put in a guardhouse. After a few days he was released on a parole of honor and confined to the limits of the town. Van Hoose remained there until he died in March, 1865." Evidently he was laid in a temporary resting place in Springfield as the following article appeared in the Fayetteville paper in 1868, when he was brought home for burial:

"FUNERAL NOTICE"

"The remains of P. P. Van Hoose will be buried at the Family Burying Ground 1/2 mile north of Fayetteville on Tuesday, 31st instant at 5 o'clock p.m. Masonic procession will move from the Hall at 2 o'clock to the residence of James H. Van Hoose and there receive the remains; from thence to the place of interment. Friends and acquaintances of the deceased are respectfully invited to attend. Fayetteville, March the 18th 1868."

The Greggs had moved to Marshall, Tex. where they ran a secret supply station for Confederate soldiers during the war. James Gregg died there in 1857; his wife Mary had died in Fayetteville in 1853. She and her daughter Jane were buried in the Van Hoose Burying Ground, where her son-in-law, Peter Van Hoose, joined them. Peter's parents, John and Lydia Van Hoose, lie there, also. He died in 1882, she in 1857.

The Van Hoose Burying Ground, later known as the Trent property, between Park and Pollard, is described in a warranty deed from Annis A. Van Hoose to James H. Van Hoose, dated Oct. 17, 1882, and recorded in Deed Record Book H-2, at page 317. This deed specifically reserved "1/2 acre square measuring equi-distant from the North-east corner of the Mary Gregg tomb which is to be the center and which 1/2 acre is to be forever held sacred as a private family graveyard."

The headstones marking these graves have been missing for many years. The Van Hoose and allied families are hoping to have the spot declared an Historic Site, and erect a bronze marker nearby to commemorate these early day residents.

Following the death of their husband and father, the widow of P. P. Van Hoose and their children--James (Edward) Henry Van Hoose, Charles Walker Van Hoose, Nathan Van Hoose, Mary Jane Van Hoose (she married T. S. Short), William Pinckney Van Hoose, Lydia Florence Van Hoose (she married David Hall Balleu)--joined the Greggs. Descendants of James and Mary Baker Gregg, and of Peter P. and Annis Adeline Gregg Van Hoose still live in Louisiana.

- w c h s -

WHEN YOU MOVE--notify FLASHBACK at 118 East Dickson St. Fayetteville, Arkansas 72701. Otherwise, it may not be forwarded to your new address by the post office.

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OLD CIRCUIT COURT

by Lloyd McConnell

In January 1881, P. M. Owenby appealed from a Judgment of a lower Court giving judgment against him in favor of G. D. Hewitt, and won a reversal. The judgment amounted to a considerable sum of money.

M. F. Lake of Prairie Grove received Judgment against J. N. Carnahan for $654.16, which judgment he sold and signed over to J. H. Ferguson.

C. L. Summers won a judgment against Thomas Carter by default in the sum of $97.04 which was based on a promissory note. Mr. Carter did not appear to defend.

W. S. Hanna, charged with a murder, failed to report at the date set for his trial, and the Court entered a forfeiture of a $2,500 bond, on which Thomas Barron, of Hogeye, was the surety. An alias warrant was issued for Mr. Hanna. When he did report, the Court set aside the forfeiture and continued the defendant on the bond.

In early 1881, railroads were coming into Washington County. Like the Union Army, they came from the North, but unlike the Union Army they paid for what they took. The St. Louis, Arkansas and Texas Railway won condemnation of the lands of Robert Anderson, in the Northeast Quarter of Section 4, Township 16 North, Range 30 West, which is now in the northwest part of Fayetteville.

There was a whistle-stop, called Barbara, in the area and the railroad company paid Mr. Anderson $250.00 plus his cost, which totaled $307.05, for the 100-foot right of way.

The Missouri, Arkansas and Southern Railway filed for condemnation against the Taylor family in the East half of the Southwest quarter of Sec. 9, Township 16 North, Range 30. They paid $350.00 for that 100 foot right of way.

The St. Louis, Arkansas and Texas Railway entered condemnation proceedings against Lafayette and Mary Gregg; the Missouri, Arkansas and Southern filed against Malvina Davenport and paid $400.00 to the Sheriff as a deposit against a judgment to come later.

Eli Crisp won a new trial on a charge of felonious assault, and the matter was reduced to aggravated assault and a ten dollar fine levied.

C. R. Buckner obtained a judgment against William McIlroy for $600.00 It was promptly paid by Mr. McIlroy, including $174.00 for damages and cost to Mr. Buckner.

John A. Neill, of Goshen, served as foreman of a jury trying one Thomas Harrell for robbery, but Mr. Harrell did not appear. A Benton County resident, R. W. Ellis, was ordered into court to make good his personal bond signed in behalf of Harrell.

Many persons were charged with selling liquor within two miles of the University, and all entered into fines of $10.00 on each charge. One whiskey merchant paid a total of $60.00 in fines. S. T. Paddock, L. J. Hickman, Joe Lyles, and many others were accused and fined for violating this law to protect the students. Times do change! Now, students are allowed to keep it in their rooms.

At the July 1881 term, Howell Hodges was fined $10.00 for not reporting. Others called were Phillip Maguire, Nathan Combs, Porter Owenby, P. T. Rose, James Bell, C. C. Seay, W. H. Eidson and Joseph Holcomb, but he, being a member of the school board, was excused.

James J. Laramore, G. W. North, George Gibson (he was also fined $10.00), Ewen Benbrook, James Sisemore, John Clark, F. M. Mayes, B. F. Ramey, Willis Clayton, Gilbert Cohea were among this Grand Jury panel.

To conduct the trials came Joseph Head, John Brinson, James E. Davis, Ransom Hester, John Webb, William Parkhurst, H. W. Gilbreath, H. F. Hartley, W. Y. Wilkerson, Andy Howe, Robert Flatt, G. W. Maruire and Isaac Hulse.

Others sitting on the trial jury were William Mitchell, Sandy Ingram, W. Douglas, Robert Wilks, John Pool, John Wheeler, Charles Mulholland, John H. Parks, E. G. Suttle, B. F. Johnson and W. M. Engles.

A further need for jurors necessitated the calling of Isham Hearrald, A. Searcy, J. D. West, John Morrow, Joe Mason, C. C. Conner, Moses Tharp, Owen Maguire, William Rutherford, W. S. Tunstill, W. A. M. Harris, T. H. Carter and Jasper Banks.

Bond in the sum of $750.00 was forfeited against Robert Crowell and Robert Wilson.

Dozens of small fines--five and ten dollars--were assessed in this term of court, apparently as a result of raids on poker games and other forms of gambling came to the attention of the Prosecuting Attorney and the Grand Jury.

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QUOTATIONS FROM THE ARKANSAS GAZETTE

Tuesday, July 4, 1826--"We congratulate our fellow citizens of Crawford county on the pleasing and highly important information contained in a letter from the Hon. Henry W. Conway. The object which has been so long anxiously sought for, is at length attained--Lovely's Purchases, instead of being surrendered to the Indians, is to be surveyed and brought into market in the course of the next year, cannot fail to give us a very great increase of population. It is generally known to the people of the Western Country, and is acknowledged by all who have seen it, to be, in point of soil, water, and climate a most desirable tract of country."

Tuesday, December 19, 1926--"We are highly gratified to learn that Col. Arbuckle, Commander of the garrison at Ft. Smith, has received instructions to permit the settlement of Lovely's Purchase, and that the people are flocking to that country in great numbers."

RESEARCHING LOST FACTS

by Bobbie Byars Lynch

When I first became interested in northwest Arkansas history, I felt I had been born at least one generation too late to contribute any new data which would change or add to our old traditions and the research of recent years. As I read everything I could find, it was evident that the research had taken many people many years to compile, but in going back to legal records to verify this data, the records seemed to contradict some of the statements of our past history.

This article is a result of my conviction that a historical marker in Springdale was in the wrong place and was therefore misleading to the traveling public. Mrs. Elsa Vaught had done the research for the Zion-Oakland Home Demonstration Club, which organization had worked long and hard to raise money for this sign. They certainly should be commended for their efforts and interest in history. The marker reads: "Butterfield Stage Coach Road, established 1858. This marker set on the Butterfield Stage Road is placed near the spot where the trail crossed the east-west road between Huntsville and the Robinson settlement in western Benton County. John Robinson, who was a Revolutionary War soldier, settled here about 1837 and the road to Robinson was designated at the point as Robinson Cross Roads."

Knowing that the Butterfield Stage Road was approximately one and one-half miles to the west, on present-day Highway 265, I contacted some of the members of the Zion Club about moving the sign to the location which I thought correct. They felt Mrs. Vaught had been accurate in her research. Researching the Huntsville Road from county court records, I found it left Old Missouri Road approximately at East Huntsville Street and made a sweeping curve to the southeast, going on the south side of today's Highway 68 city route to the road leading to Hewitt Springs (by way of Parsons Road). A. F. Phelan filed on Hewitt Springs land in 1838 and not until after

1850 was the land near him claimed by patent. The road turned south east from Hewitt Springs and it hugged the lower side of Price Mountain, passing in front of the present David Gay home (this roadbed can still be seen in front of his home on the north side of Highway 68E). From this point, it started up the mountain in front of the Hallum home (old junk yard road), and before reaching the top came off the mountain near to the old Billy Vanzant home. From there it followed approximately the present 68 E route to the old Carroll home, and then to old Hal Johnson Farm, then southeast to the Head's Ford Crossing, about one-half mile south of the present-day Beaver Lake Bridge. According to the 1848 map, it then crossed near the present Blue Springs Bridge, going on the south side of Brush Creek, using approximately the Mayfield Road of today to cross into Madison County on the line (Twp. 17, R28, Sec. 25).

In 1848, a road from Fayetteville made a sweeping arc northeast to connect with Huntsville Road at the Head's Ford Crossing. It left the Old Missouri Road at about the township line of 16 and 17, on the Range line of 29 and 30, and continued northeast, the Old Missouri Road going straight north to Lake Fayetteville (near Dameron mill site) and on to Shiloh (Springdale).

The War Eagle Road, about 1859, came east off the Old Missouri Road below the southeast side of Lake Fayetteville and went in a northeasterly direction on the east side of what is now the Howard Anderson farm. It continued in a northeast direction to Head's Ford Crossing and from there to Blackburn's Mill. Today's Zion Road is a part of War Eagle Road south of Highway 68 E, near the present Zion Church. (Originally, this church was log, and was moved to the present site.) The War Eagle Road at later dates connected to 68 E on Habberton and Sonora Roads.

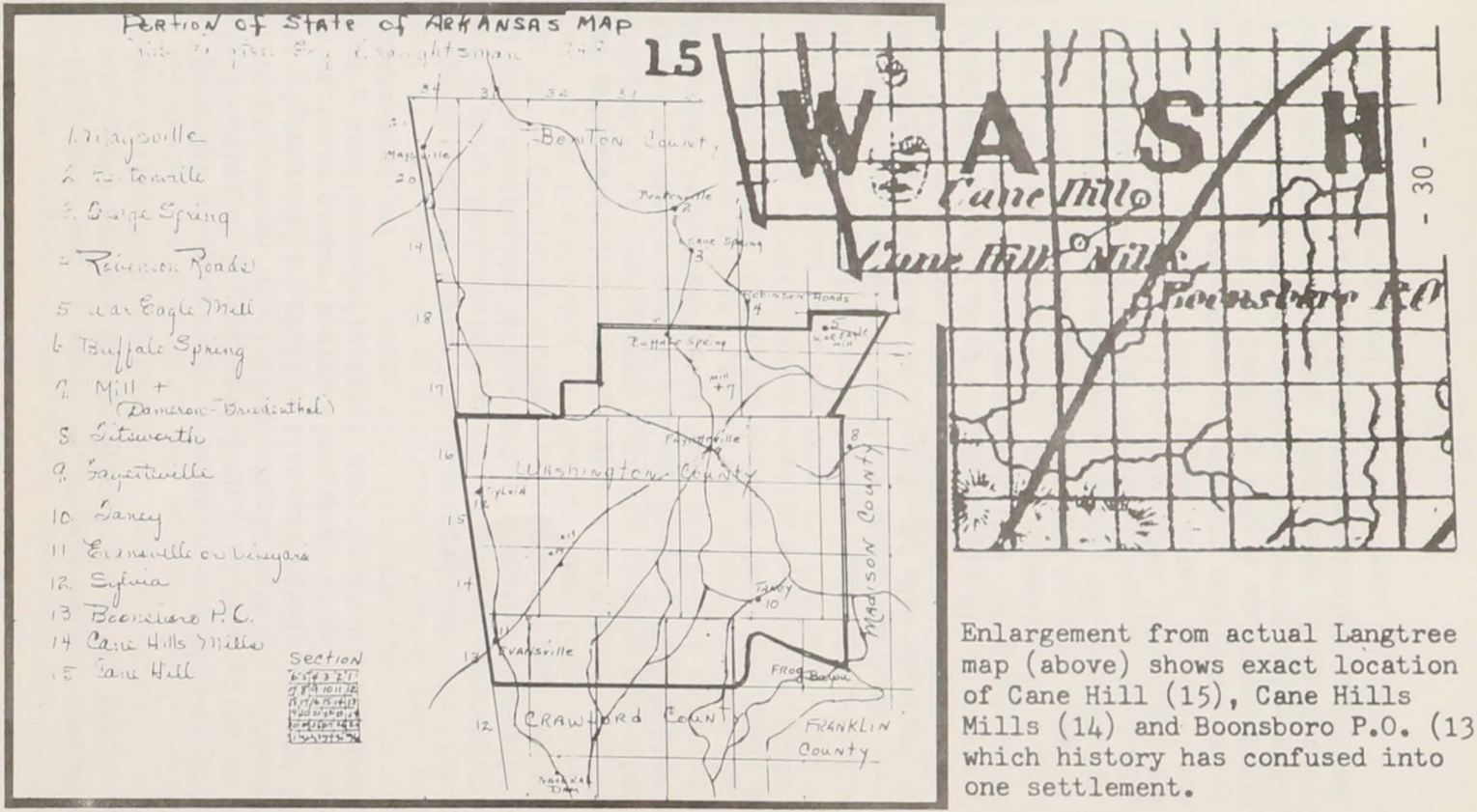
A portion of the present Friendship Road was created about 1859 and was a part of Huntsville Road from Fitzgerald Station to Friendship Church near Hewitt Springs. At this point, it went south on Friendship Road to the Prairie Township line, then to Clear Creek Township line (that's what it says; township lines must have changed,

or else there was an error in the record and they meant clear Creek) and to Marion Gregg's on White River, and it was called Richland Road.

There was no road north of what is now Highway 68 E at the junction of City 68 and Zion Road to a point on the Friendship Road, until after the late 1940s. The present Highway 68 E at the junction of Highway 265 and 68 E going in an easterly direction, was called Graham Lane, a very small community trail to the Graham orchards of yesteryears.

The historical marker at Zion Road and City 68 route and Highway 68 E would have to be placed approximately at East Huntsville Street and Old Missouri Road in order to be partially accurate, but would still be incorrect as to the history of the Robinson Cross Roads. I was wrong when I thought it should be placed at Highway 265 and 68 E. We do need a marker at this site stating it was on the Butterfield Stage Route. What better opportunity than the Bicentennial Year?

Regarding the Butterfield Stage Route, in 1857, when Butterfield received the contract, he made the route the shortest distance from one stop to the next. That was the date (1857-58) when, from approximately East Huntsville Street, on Old Huntsville Road, there was a road connected to East Caudle Street and Old Missouri Road. This section we now know as Old Missouri Road. In the intervening years, people forgot that Old Missouri-Post Road originally went through Shiloh. This can be verified from many county court road records. This is the reason why Shiloh community erected or used a small log building near the northwest corner of East Caudle and now Missouri Road, on Lynch's Prairie. Their town had been by-passed for mail service; thus this cabin became their post office. This log building is still remembered by many and there are varying opinions as to which side of the road it stood on, but I am going to settle for Mr. Harold Henson's memory because he delivered mail along this route for many, many years. This post office was across the street in a southwest direction from the old Hale place.



Enlargement from actual Langtree map (above) shows exact location of Cane Hill (15), Cane Hills Mills (14) and Boonsboro P.O. (13) which history has confused into one settlement.

The old Gladden Hotel was never used by Butterfield, as it wasn't built until after his stage route went out of existence in this area (1861), but it was used as a hotel and stage stop (on a different site from its location when torn down) and when we had a different mail and stage service in 1872. That was when we got a post office and became Springdale. Today, one-third of this old hotel is still standing near Central School but the top floor has been removed.

For some time I have been searching for a survey map, documented by Surveyor's Office records in Washington and Benton Counties, for the 1850 period of time. All that time, a map of Arkansas, which had been drawn over a period of eight years, finished in 1848, then printed in 1866, and mailed to Land Districts for accurate filing on claims of land in Arkansas, has hung in our Historical Society office. Pat Donat mentioned it, and at her suggestion I checked the dates.

When I scrutinized the map closely, I was overwhelmed because I knew it was going to change other traditions of Benton and Washington Counties. One of the things it proves is where Robinson Cross Roads really was. (Mrs. Vaught thought it was the western Benton County settlement. Her research has to have come from a diary, letters, etc., and this western Robinson Community was all she could document. Without the 1848 map, this is understandable.)

Robinson Roads in 1848 was a town or settlement which has since been known by other names--Mudtown, Bloomington--and today, a mile northwest of this settlement, is known as Lowell, Benton County, Arkansas. The Old Missouri Road would lead you from this point south to the Huntsville Road.

The map also makes a road record of Washington County more understandable--Book A, page 7, July, 1835: "The commissioners appointed at last term of court to mark and view a road from Fayetteville to the Missouri line as to intersect a road leading from Mount Pleasant, the county seat of Barry County, Missouri, report: Beginning at the town of Fayetteville at the N. E. corner of said town, and from thence by chops and blazes to the

Osage Spring and from thence to the point where Brown's line[1] crosses the line of the State of Missouri, same being in direction of county seat of Barry County, Missouri."[2] (Old Missouri Road was in existence at the time the 1831 survey was made.)

This route would take you, in 1839, on Old Missouri-Post Road by way of Lake Fayetteville, north on Highway 265 to East Caudle Street in present Springdale, then west through present airport, to Crutcher Street, north on Crutcher to Spring Creek. (Mr. Hilton Lewis tells me that the unpaved portion of Crutcher has never been deeded to the city and although a portion of it was one

(1) From Wilderness to Statehood with William E. Woodruff by Thomas Rothrock. Quotes from the Arkansas Gazette March 21, 1832. The report states that the President of the U. S. is offering to give to the Cherokee Nation the counties of Crawford and Washington on the condition that they move en masse west of the Mississippi. "All U. S. Surveys west of Brown's line (which runs North from the Arkansas to the southern boundary of Missouri) have been suspended. This will give to the Cherokee another strip of land 80 miles long by 21 miles wide." On the 1848 map, Brown's line will run straight north and south through Bentonville to the Missouri line from the Arkansas River. Note: This line will be approximately 22½-23 miles from point on Missouri line, west to the northwest corner of Arkansas and Missouri.

(2) Barry County was created from Green County in 1835. Springfield was the county seat of Green County. The county seat of Barry County, after an unknown month in 1835, was Cassville, Missouri, and it included all the area north of Benton County in Missouri, so from Bentonville (point of Brown's line) the direction of the road would depend on where Mt. Pleasant is. I feel this is another name for Cassville, or Barry County had another county seat unknown even by the (Utah) Everton Publishers on research of change of counties in the United States. (See 6th Edition The Handy Book for Genealogists.)

of our first roads, it is amazing that it still remains unpaved.) At Spring Creek, the road stayed on the west side of the branch on the Mill Street and out our present Old Wire Road to Fitzgerald's Station. From there, the road would take you to Robinson Roads. On the 1848 map, Osage Springs is a town on the diagonal drawn from Robinson Roads to a point where Highway 71 turns north to Bentonville out of present-day Rogers (Osage Springs Twp. 17, R30, Sec. 16, Benton County). From that point the road went to Bentonville and on to the Missouri line in a northeast direction. About two miles northwest of Robinson Roads, this road forked, and the Old Missouri Road turned northeast (Twp. 19, R30, Sec. 36, forked on the Twp. line of 18 and 19) and went by way of Cross Hollows, northeast to Barry Co., Missouri, intersecting the northeast road, from Bentonville, in Twp. 21, R29, Sec. 25, Benton County, Arkansas.

We think of Osage Springs today as being west of this site. Thus, future research will be able to document more accurately other stories of this area by this discovery that there were two Osage settlements. Today's is shown on the 1901 map as Osage Mills Post Office, in Twp. 19, R31, Sec. 34, Benton County. The creek which Osage Mills P. O. is on was marked Prairie Creek on the 1848 map; today it is known as Little Osage Creek. This was the left fork; on the 1848 map, the right-hand fork was unmarked, but it led to the settlement known at the time as Osage Springs. In 1969, the right-hand fork is Osage Creek. The area around Bentonville, Osage Mills, and Osage Springs is all called Osage Prairie in 1848.

So far, we have discovered from this 1848 map that we had two Robinson settlements and two Osage settlements. Now for the other two sites in Washington County which intrigue me the most.

About Cane Hill

After my article in the May (1975) issue of FLASHBACK on the "Early Mills" the Society received a letter from a Cane Hill historian, saying my article was inaccurate as to Cane Hill research.

First, let me say we did have one typographical error on page 24, under Observations: line three should read "boundary of Twp. 14, Range 33, Sec. 1."

The research for this article was documented from legal records and the 1831-1834 survey maps of Washington County. At that time, I never dreamed that a few weeks later a map would document its accuracy even further.

The 1848 map shows Cane Hill in Twp. 15, R32, Sec. 32 just as the 1831 survey map shows. It is marked on the map as a town, and in Twp. 14, R32, Sec. 8 (which is today's location of Cane Hill) is shown the town of Boonsboro Post Office. No wonder our traditions have become twisted. The post office records were accurate, but we were confused. The name of present-day Cane Hill did not become Cane Hill until after 1901. (On a June 1901 survey map of Washington County, Boonsboro is shown in Twp. 14, R32, Sec. 8.) The post office dates shown in FLASHBACK (Vol. VIII, No. 2, March 1958) on pages 3 and 4, of the Cane Hill area, can now be read with more accuracy. The name of Boonsboro did not change until after 1901; just the post office sites. August 2, 1901, Boonsboro became Cane Hill and has so remained to present date.

On the 1848 map, in Twp. 14, R32, Sec. 6, is shown a town by the name of "Cane Hill Mills." This is the location of the unnamed mill I mentioned on page 20 of my mill article (FLASHBACK, May 1975). These towns on the 1848 map are shown by a circle; mills are marked with a cross. This Cane Hill Mills settlement must have been the post office called Steam Mill in 1839.

These post office records were obtained by someone in our Society and the article was written from these documents. Not having seen the original records, I assume that the notations in parentheses are comments by the author (such as "Changed to Boonsboro", "Changed to Cane Hill", etc.)

Who can say with accuracy when Cane Hill, in Twp. 15, R32, Sec. 32, ceased to exist as a settlement? Judging

by post office records, it was 1868. Note that in the 1867-8 period there was a post office in both Boonsboro and Cane Hill. In 1829 there was a post office in Cane Hill and Steam Mill. I need original government record in order to be more accurate as to the post offices.

From these records of Cane Hill, Cane Hill Mills, and Boonsboro as separate settlements, researchers into the history of Cane Hill could possibly glean new data from the histories and traditions written in the past. That will lead to more new discoveries about their area.

About War Eagle Mills

Researchers have contended that the Benton-Washington County line has changed many times, but actually it has changed only once--in 1836, when Benton County was organized from Washington County. The line has remained constant through the years and can be verified from the maps of 1831-1834, 1848, 1901, 1908 and 1969. Thus any records found in Washington County after 1836 pertain to Washington County as it is today.

Note on page 25 in the May (1975) issue of FLASHBACK, that records show that Josiah H. Blackburn registered as miller of Sylvanus Blackburn mill in June of 1851, and Henry Rhea registered as miller of Sylvanus Blackburn's Mill, Washington County, on stream called War Eagle, in June of 1849. These two entries puzzled me before the discovery of the 1848 map.

The present War Eagle Mills is in Benton County, Twp. 19, Sec. 34, Range 28. This mill is not shown on the 1848 map, but in Washington County, in the SE¼ of the SE¼ of Sec. 20, Twp. 18, R28, is shown on the War Eagle River a settlement named War Eagle Mills. This is approximately two miles up War Eagle from the White River junction, approximately six miles below the present-day War Eagle Mills of Benton County. (Approximately six miles below the present War Eagle Mill in Benton County is the location Goodspeed gave for the mill John Turner built in 1848, but Goodspeed has the date wrong also. While some of his material is documented, some of it is tradition.)

On page 26 of FLASHBACK (May, 1975), referring to the Blackburn Mill, I stated that the Blackburn Mill was the War Eagle Mill in Benton County. I now believe this to be inaccurate. From the 1848 map, it would appear that John E. Turner built a mill (known as the Blackburn Mill in Washington County) later owned, or perhaps leased by Sylvanus Blackburn, in the settlement called War Eagle Mills and that Rhea, and Josiah Blackburn, were millers there. (More than likely, he just never filed on the land and Oliver did. Wasn't this called claim-jumping?)

The original patent on this land is dated after 1849. It was shown as a swamp in plat maps. Next to this, on the west side, Joel Oliver homesteaded property in 1849. Oliver sold the property to James McDowell in 1854, who sold it to John F. Barr and Richard P. Willit in 1858. On March 29, 1868 the final mortgage of $1,400 was paid off. In Book R, page 176, Barr and his wife are recorded as selling the SE¼ of SE¼ of Sec. 20 to Hiram Dailey on December 23, 1867. No mention of mill or settlement is made in deeds or survey notes.

As in the Cane Hill settlements, the Robinson settlements, and the Osage Springs settlements, I believe War Eagle Mills history and tradition has become interwoven in today's history as one site only. A student at the University of Arkansas who needed a subject for thesis, could use these few records and, by further search into land records, could find data to document these areas more accurately. All land sales in this area should be searched, not just Sec. 20. Some older people have told me they have heard about a mill and settlement near War Eagle and White River. Others contend only the one War Eagle Mill in Benton County existed. Both sites should be documented by research from legal records, if possible, and not by tradition. Also, when you read family histories of the present Benton County mill, remember that Blackburn had two mills, one in new Benton County, and one in Washington County. The Arkansas Gazette reported that on January 30th, 1833, a new War Eagle post office opened in Washington County, with Isaac Crow the postmaster. This may have been either at Washington or Benton County site. At this late date it is impossible to say for sure which it was.

Other Data from 1848 Map

The eastern line of Washington County shows a slight change in boundaries from 1848, 1901, 1969 survey maps. Also, note that Crawford County, on the southeast side of the southern boundary line of Washington County extends into present Washington County and is shown as a part of Frog Bayou in 1848.

West Fork was in Twp. 14, R30, SE¼ of Sec. 5. Today, it is on the north line of Sec. 5, in the center of the section.

Buffalo Spring was in Twp. 18, R31, Sec. 25. This is present-day Elm Springs.

Evansville, or Vineyard, was in Twp. 13, R33, on Sec. line 15/16. In 1908, it is shown in Twp. 13, R33, Sec. 21 and 22, the same as on the 1969 map.

Taney, in Twp. 14, R29, Sec. 30, was at the junction of Highway 71 and road going northeast to Sulphur City in 1848. Brentwood today is in the same township, range and section, but is approximately a mile north on 71 of this junction.

Sylvia was in Twp. 15, R33, Sec. 8, Washington County.

Robinson Roads was in Twp. 18, R29, middle of S½ of Sec. 7 in Benton County.

Maysville was in Twp. 20, R34, Sec. 4; today it is in Twp. 20, R34, Sec. 21.

Osage Prairie and Beattie's Prairie are shown in Benton County on the 1848 map.

Lindsay's Prairie was in Benton County, Twp. 18, R33 and R34.

Titsworth was shown in Twp. 16, R28, Sec. 16 in Madison County. In this location today it is in Washington County and southeast of Goshen. In 1848, the Madison-Washington County line is on the east side of Sec. 17,

Twp. 16, R28. In the 1901 map, the Washington-Madison County line in this area is between Sec. 14 and Sec. 15. In 1969, the line is on the east side of Sec. 16.

The only mill marked on the 1848 map in Washington or Benton Counties is the Dameron-Bridenthal Mill, now the location of Lake Fayetteville, Of course, we know others existed then, just as other roads and other settlements existed but were not shown.

Now we need an 1870-1880 map which would uncover even more of the many changes in our county. Anyone know of one?

Hopefully this 1848 map will be properly restored and framed so that it can be hung once again in our Society offices for those who wish to see and use this information for further research.

Sources for Data

1. 1831 to date of completion--some sections as late as 1842, original survey maps of Washington County and original survey notes.

2. 1848 map of State of Arkansas by Caleb Langtree; it took 8 years to compile from the official plats and field notes signed by Wm. Pelham as the surveyor of Public Lands. It was printed in 1866 and mailed to district land offices in Arkansas. Shows sections and fractional sections, and all navigable streams, the Military Land District in which are located all those forfeited lands subject to donation by actual settlers, and the lands selected by State of Arkansas as part of 500,000 acres donated to her by Congress, the Seminary and Salt Springs Lands.

3. U. S. Topographic map of Arkansas-Missouri, Eureka Springs Quadrangle, February 1901.

4. 1908 plat map of Washington County.

5. General Highway Map of Washington and Benton County 1969, by Arkansas State Highway and Federal Highway Administration.

MARRIAGES IN THE 1880s

by Lloyd McConnell

C. E. Peerson and Miss Josie Crider, ages 25 and 19, of Springdale were making matrimonial pledges in the presence of the Rev. S. E. Beaman on September 24, 1884.

Mr. S. Pennington and Luewortha Harp, 24 and 21 years, of Mankins on Middle Fork, were wed on May 18, 1884 by the Rev. Johnson Crawford.

William Pevyhouse and Miss Lucinda Hudson, both of the Rhea community, age 18 and 15, were married on Oct. 4, 1884 by T. H. Day, a minister. A youthful marriage.

C. M. Pitts, 27, was married to Miss Lennie M. Rose, 18, of Winslow, by Justice of the Peace R. A. Rutherford on June 29, 1884.

Justice of the Peace J. M. Brinson performed the wedding ceremony for Jarvis Porter, age 45, and Mrs. Mary Cardwell, 40, both of Fayetteville. Their wedding date was March 17, 1884.

B. F. Deaver, 33, Springdale, and Miss Mary Putman, 24, Fayetteville, told their marital vows to J. A. Elliott on June 5, 1884.

J. F. Johnson, a Justice of the Peace, performed a ceremony for George Ratliff and Miss Williams, both of the Maguire Store area. He was 25 and she, 18. Their date was November 7, 1884.

A wedding of interest in Fayetteville on February 14th, 1884 was that of Hugh F. Reagan, age 29, to Miss Mary B. Agee, 24, by the Rev. J. A. Elliott.

John Remington, 21, and Miss D. L. Kennett, 22, both of Springdale, went before William H. Mayes, a Justice of the Peace, who signed their certificate Nov. 9, 1884.

Perry F. Rhoads, 28, and Miss Hannah K. Reed, 19, both of the Boonsboro area, went before the Rev. J. F. Crozier who read them the wedding words on July 16, 1884.

Edmond Osburn, a Minister, signed the certificate proving the marriage of John L. Rich to Miss Louisa Osborn, both 21, on March 9, 1884.

Justice R. A. Rutherford, of Middle Fork, performed the ceremony for W. D. Robbins, 27, and Miss Jane Masters, 26, both of Durham, on January 24, 1884.

John W. Roberson, 40, of West Fork and Miss Mary Kelly, age 24, were in the presence of G. S. White, Justice of the Peace, pledging their troth on June 29, 1884.

The Rev. Johnson Crawford read their marital vows to J. H. Robinson, 32, and Miss Zona Carter, 18, both of the Carters Store community on Middle Fork, on December 29, 1884.

William Rule, 19, of Winslow, took his girl friend, 15-year-old Miss Adeline Center, to the Minister J. W. Cook who performed their wedding rites on September 7, 1884.

L. A. Sanders, 20, married Miss Mary H. McCarthey, also 20, both of the Spring Valley community, on the 29th of June, 1884. C. P. Tupper was the Minister.

Hugh Scott, 23, and Miss Maggie Campbell, 18, were married May 29, 1884 by the Rev. F. R. Earle of Cane Hill.

William Penn, a preacher, performed in Fayetteville the wedding of J. P. Scott, 28, and Mrs. Nannie L. Wright, 32, as of March 6, 1884.

W. S. Scott and Miss Florence Mills, both 22, took their license to Rev. Eli Baker on August 4, 1884.

A popular Springdale couple, W. H. Searcy, age 34, and Miss C. S. Owenby, 24, were married on October 20, 1884 by W. H. Corley, a Minister of the Methodist Church So.

Thomas Sexton of Sexton, which was a town north of Dutch Mills, and Miss Jennie E. Anderson, ages 23 and 18, were

married on October 25th, 1884 by W. D. Parks, a Justice of the Peace. Sexton is a town that was--and is gone!

Clinton Shreve, 21, and Miss Alice Son, 17, were married by Justice of the Peace Jonathan Clark on December 7th, 1884.

Durham couple, John Shumate, 22, and Miss Nora Ratcliff (Ratliff), 16, were married on November 2, 1884 by Joel H. Webb.

Elm Springs people F. A. Singleton, 26, and Miss Acella N. Hinton, 19, were married by W. J. Hogg, a Justice of the Peace, May 18, 1884.

F. J. Skelton who was 21, and Miss Ella V. Goldsborough who was 16, were married by J. D. Woolsey, a Minister, on September 24, 1884.

Jasper W. Skelton, 32, and Miss Susan A. Moore, 26, both of Maguires Store, were married by R. A. Rutherford on Oct. 9, 1884. He certified that they were now husband and wife.

John T. Boyd performed a ceremony for Judson Slight and Miss Virginia Bailey, both 21 and both from Springdale, on September 21, 1884.

John C. Smith, 22, and Miss Ellen Chitister, 17, came in from Maguire to ask the Rev. J. W. Dutton to unite them in wedlock, which was done on August 28, 1884.

The Rev. Robert Boone performed the wedding for Charles Terry, 27, and Miss Laura Fisher, 18, both of the Strain Community, on October 29, 1884.

Ruble Terry and Miss Bessie A. Lee, 25 and 26 years, on Feb. 17, 1884 went to the Rev. A. G. Smith for nuptials. Terry lived at Springdale and his bride at Elm Springs.

Justice of the Peace J. C. Massie presided at the civil ceremony uniting J. R. Thatcher, 48, and Miss Mary Martin, 36, both of Fayetteville on February 25, 1884.

Washington County
Historical Society
118 East Dickson
Fayetteville, AR 72701

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